IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.192 OF 2003
IN
COMPANY PETITION NO.90 OF 1997

Bank of India. ..Applicant.
Vs.
M/s. Nidhi Apparels Pvt. Ltd. and ors.
..Respondents.

Ms. Mamta Singh i/by M/s. Bhardwaj Associates for the Applicant.

Mr. S.C.Gupta, O.L. present.

CORAM : A.M. KHANWILKAR, J.
DATED : 14/7/2005

P.C.:

1. Heard counsel for the applicant. The applicant is claiming through respondent No.2.

2. The case of the applicant is that the property in question is mortgaged in favour of the applicant by respondent No.2. The said land however, belonged to respondent No.1 company. The respondent No.2 claims to have purchased the said land from respondent No.1 company after institution of the company petition.

3. As company has been ordered to be wound up, the question which arose before this court is whether the transaction between the respondent No.2 and 1 after the institution of the petition is valid or to be declared void. That question was raised at the instance of the respondent No.2 and has been answered by the Single Judge of this court in its decision dated 9.3.2000 in Company Application No.360 of 2002. That decision has become final.

4. As the applicant is claiming through respondent No.2, cannot be permitted to contend to the contrary even if the applicant was not party to the said proceeding. The applicant may take recourse of other remedy as may be permissible by law. However, this application will have to be rejected.

5. Ordered accordingly.

(A.M. KHANWILKAR,J.)